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Chapter 7 Trustee
For the Bankruptcy Estate of
LARRY BOECKEN, Debtor
And Plaintiff

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Attorneys for Defendant
GALLO GLASS COMPANY

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

LARRY BOECKEN, JR.,
Plaintiff,

v.

GALLO GLASS COMPANY, and
DOES 1 THROUGH 50,
INCLUSIVE,

Defendant.

CASE NO. 1:05-CV-00090 LJO BAM

**STIPULATION AND ORDER TO DISMISS
ENTIRE ACTION WITH PREJUDICE**

Judge: Hon. Lawrence J. O'Neill

1 WHEREAS, this lawsuit was filed in November 2004. On August 21, 2008,
2 Plaintiff filed a Voluntary Petition for bankruptcy under Chapter 7 of the Bankruptcy Code in the
3 United States Bankruptcy Court for the Eastern District of California, Case No. 08-15050-B-7.
4 This lawsuit and the claims therein were not listed in Plaintiff's sworn Statement of Financial
5 Affairs, filed with the Bankruptcy Court or any other filing with the Bankruptcy Court while his
6 Petition was pending;

7 WHEREAS, on or about December 30, 2008, the United States Bankruptcy Court
8 granted Plaintiff a discharge under section 727 of title 11, United States Code;

9 WHEREAS, Defendant discovered Plaintiff's Voluntary Petition for bankruptcy
10 when it retained new counsel in this case in May 2011 and brought this Petition to the attention of
11 counsel for Plaintiff and this Court;

12 WHEREAS, on May 27, 2011, the United States Bankruptcy Court for the Eastern
13 District of California reopened Plaintiff Larry Boecken, Jr.'s Chapter 7 bankruptcy, No. 08-
14 15050-B-7, and ordered that amended schedules be served on the U.S. Trustee within 30 days
15 along with a declaration from Plaintiff explaining why the asset was omitted from his original
16 schedules. The order further provided that the U.S. Trustee thereafter may have 30 days to
17 appoint a Chapter 7 trustee if necessary to investigate and administer the omitted asset.

18 WHEREAS, on June 28, 2011, the U.S. Trustee appointed James Salven as the
19 Chapter 7 Trustee for the Bankruptcy Estate of Larry Boecken, Debtor;

20 WHEREAS, on May 29, 2012, the Honorable Richard Lee, United States
21 Bankruptcy Judge, United States Bankruptcy Court for the Eastern District of California, entered
22 the ORDER APPROVING COMPROMISE OF CONTROVERSY BETWEEN BANKRUPTCY
23 ESTATE OF DEBTOR AND GALLO GLASS COMPANY in Case No. 08-15050-B-7, a copy
24 of which is attached as Exhibit 1.

25 NOW, THEREFORE, James E. Salven, Chapter 7 Trustee for the Bankruptcy
26 Estate of Larry Boecken, Debtor, and Defendant Gallo Glass Company hereby stipulate that this
27 action be dismissed in its entirety with prejudice, with each party to bear its own costs and
28 attorneys' fees.

1 Dated: May 30, 2012

JAMES E. SALVEN

2
3 By:

4 James E. Salven
5 Chapter 7 Trustee
6 For the Bankruptcy Estate of
LARRY BOECKEN, Debtor
And Plaintiff

7 Dated: May 30, 2012

PAUL HASTINGS LLP

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9 By: /s/ Nancy L. Abell

10 Nancy L. Abell
11 Counsel for Defendant
Gallo Glass Company

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13 **ORDER**

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15 IT IS HEREBY ORDERED, ADJUDGED AND DEGREED THAT, in
16 accordance with the May 29, 2012 ORDER APPROVING COMPROMISE OF
17 CONTROVERSY BETWEEN BANKRUPTCY ESTATE OF DEBTOR AND GALLO GLASS
18 COMPANY, entered by the United States Bankruptcy Court for the Eastern District of California,
19 in Case No. 08-15050-B-7, the Bankruptcy Estate of Larry Boecken, Debtor, and the stipulation
20 of the real parties in interest, this action is hereby dismissed in its entirety with prejudice. Each
21 party shall bear its own attorneys' fees and costs. This Court VACATES all pending dates and
22 matters, including the June 21, 2012 hearing on the motion for leave to file summary judgment.
23 This Court directs the clerk to close this action.
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1 IT IS SO ORDERED.

2 Dated: May 31, 2012

3 /s/ Lawrence J. O'Neill
4 UNITED STATES DISTRICT JUDGE
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